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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 686 (LAK)

5 JAMES GATTO, a/k/a "Jim,"
6 MERL CODE,
7 CHRISTIAN DAWKINS,

8 Defendants.

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9 October 24, 2018
10 9:38 a.m.

11 Before:

HON. LEWIS A. KAPLAN,

12 District Judge
13 and a Jury

14 APPEARANCES

15 ROBERT S. KHUZAMI
16 Acting United States Attorney for the
17 Southern District of New York
18 BY: EDWARD B. DISKANT
19 NOAH D. SOLOWIEJCZYK
20 ALINE R. FLODR
21 ELI J. MARK
22 Assistant United States Attorneys

23 WILLKIE FARR & GALLAGHER LLP
24 Attorneys for Defendant Gatto
25 BY: MICHAEL S. SCHACHTER
CASEY E. DONNELLY

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APPEARANCES (Cont'd)

NEXSEN PRUET LLC

Attorneys for Defendant Code

BY: MARK C. MOORE

-and-

MERL F. CODE

HANEY LAW GROUP PLLC

Attorneys for Defendant Dawkins

BY: STEVEN A. HANEY

Also present: SONYA JACOBS, Paralegal

SYLVIA LEE, Paralegal

ANTHONY CASOLA, FBI

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Verdict

1 (Trial resumed; jury not present)

2 THE COURT: Good morning, all.

3 ALL COUNSEL: Good morning, your Honor.

4 THE COURT: I gather we have the jury, so let's bring
5 them in.

6 The defendants all are present.

7 (9:39 a.m., jury present)

8 THE COURT: Good morning, ladies and gentlemen.

9 The defendants are present.

10 You may resume your deliberations. I always count
11 heads in the morning, though. Thank you.

12 We are in recess.

13 (Recess pending jury verdict)

14 (2:47 p.m., jury not present)

15 THE COURT: I am advised that the jury has arrived at
16 a verdict.

17 Before I bring them in, I want to remind everyone
18 that, with the exception of any particular devices the
19 possession of which I authorized by written order prior to the
20 start of the trial, no electronic devices should be in this
21 courtroom. If you have one, you ought to take it outside and
22 park it somewhere. No cell phone communications. No emails.
23 No texts. Nothing.

24 No demonstrations or outcries when the verdict is
25 announced. We expect decorum in the courtroom.

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1 Am I clear to everybody?

2 OK. Bring in the jury.

3 And no one bolts for the door before we recess.

4 (2:50 p.m., jury present)

5 THE COURT: Who is the foreman?

6 Sir, has the jury reached a verdict.

7 THE FOREMAN: Yes, it has.

8 THE COURT: Please hand it to Andy in the envelope.

9 (Pause)

10 The defendants will rise and face the jury.

11 The Clerk will publish the verdict.

12 THE CLERK: Will the foreperson of the jury please
13 rise.

14 Mr. Foreman, as to Count One, conspiracy to commit
15 wire fraud, how do you find the defendant James Gatto, not
16 guilty or guilty?

17 THE FOREPERSON: Guilty.

18 THE CLERK: As to Defendant Merl Code, not guilty or
19 guilty?

20 THE FOREPERSON: Guilty.

21 THE CLERK: As to Defendant Christian Dawkins, not
22 guilty or guilty?

23 THE FOREPERSON: Guilty.

24 THE CLERK: As to Count Two, wire fraud (University of
25 Louisville), as to defendant James Gatto, not guilty or guilty?

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1 THE FOREPERSON: Guilty.

2 THE CLERK: As to Defendant Merl Code, not guilty or
3 guilty?

4 THE FOREPERSON: Guilty.

5 THE CLERK: As to defendant Christian Dawkins, not
6 guilty or guilty?

7 THE FOREPERSON: Guilty.

8 THE CLERK: As to Count Three, wire fraud (University
9 of Kansas), as to defendant James Gatto, not guilty or guilty?

10 THE FOREPERSON: Guilty.

11 THE COURT: You may be seated, sir.

12 Is there a request for a poll?

13 MR. SCHACHTER: Yes, your Honor.

14 THE COURT: Poll the jury, please.

15 You may all be seated.

16 THE CLERK: Juror No. 1, is that your verdict?

17 JUROR: Yes.

18 THE CLERK: Juror No. 2, is that your verdict?

19 THE FOREMAN: Yes.

20 THE CLERK: Juror No. 3, is that your verdict?

21 JUROR: Yes.

22 THE CLERK: Juror No. 4, is that your verdict?

23 JUROR: Yes.

24 THE CLERK: Juror No. 5, is that your verdict?

25 JUROR: Yes.

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1 THE CLERK: Juror No. 6, is that your verdict?

2 THE FOREMAN: Yes.

3 THE CLERK: Juror No. 7, is that your verdict?

4 JUROR: Yes.

5 THE CLERK: Juror No. 8, is that your verdict?

6 JUROR: Yes.

7 THE CLERK: Juror No. 9, is that your verdict?

8 JUROR: Yes.

9 THE CLERK: Juror No. 10, is that your verdict?

10 JUROR: Yes.

11 THE CLERK: Juror No. 11, is that your verdict?

12 JUROR: Yes.

13 THE CLERK: Juror No. 12, is that your verdict?

14 JUROR: Yes.

15 THE CLERK: Jury unanimous, your Honor.

16 THE COURT: Is there any reason why the verdict

17 shouldn't be recorded and the jury discharged?

18 Mr. Diskant?

19 MR. DISKANT: No, your Honor.

20 THE COURT: Mr. Moore?

21 MR. MOORE: No, your Honor.

22 THE COURT: Mr. Haney?

23 MR. HANEY: No, your Honor.

24 THE COURT: Mr. Schachter?

25 MR. SCHACHTER: No, your Honor.

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1 THE COURT: The verdict shall be recorded.

2 Members of the jury, I make it a practice never, ever,
3 to comment on the substance of a jury's verdict, and I'm not
4 going to depart from that now. You did your job, I do my job,
5 and let it rest there.

6 I do think it is very important, however, to recognize
7 the fact that I certainly appreciate, and I know everyone else
8 appreciates, the seriousness with which you took your job, the
9 attention you have paid to it over long days of trial and long
10 days of deliberation. You are entitled to a great deal of
11 credit for that. It's a duty that we all have and a privilege
12 that we all have as citizens. It is one of the things that
13 makes this country what it is. And you give up a lot of time,
14 and a lot of effort, and you put up with a lot of inconvenience
15 to do it, and I thank you on behalf of the United States and
16 everyone involved in this trial.

17 Now, I'm going to discharge you in just a moment. As
18 soon as you are discharged, you are free to say or not say
19 anything about this case that you wish to to anyone. Let me
20 make a couple of suggestions.

21 First of all, you are not obliged to talk to anybody.
22 That includes reporters. It's your call entirely. If you
23 elect to talk to anyone at all, I just suggest that you bear in
24 mind that in saying whatever you may want to say about what
25 happened in the jury room, you respect the fact that your

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1 fellow jurors have some expectation of privacy. It's not a
2 matter of law, it's just a matter of the golden rule, "Do unto
3 others as you would like them to do unto you." It is a matter
4 of your own personal judgment.

5 It is not inconceivable that somebody connected in one
6 way or another with the prosecution or the defense might seek
7 to contact you or talk to you about the case. You are free to
8 do what you wish in that regard. If someone approaches you,
9 however, and you don't wish to talk, or if you have talked and
10 you want to stop, and it's someone involved in the case who
11 doesn't take no for an answer, please feel free to call Andy.
12 I have a sneaky suspicion I can put a stop to that problem.

13 With that, I thank you again. And you should proceed
14 into the jury room, collect your stuff, leave your notes with
15 Andy, and have a wonderful afternoon and weekend. Thank you so
16 much.

17 (Pause)

18 You know, it occurs to me to say one more thing.
19 There may be a lot of press and other people around the
20 building. There are at least two other very high-profile cases
21 going on here today. Why they are there, I couldn't begin to
22 know. I think the security personnel, if needed, will help you
23 get out of the building.

24 OK. Thank you.

25 (The jury was dismissed)

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1 THE COURT: OK. Please be seated, folks.
2 I propose to set sentencing for March 5th at 10 a.m.
3 Does that work for everybody?
4 (Pause)
5 OK, March 5th it is.
6 Any applications?
7 (Pause)
8 MR. DISKANT: No, your Honor.
9 THE COURT: OK. I think that concludes our business.
10 I think I would like to visit for a minute with lead
11 counsel in the robing room.
12 OK. Thank you. We are adjourned.
13 (Adjourned)